

Wojciech Bańczyk¹

Sustainable Development and Human Rights – Introductory Remarks

Sustainable development comes out in our times both as a significant challenge to states, corporations and apparently every person, as well as a promising research field in the academic world. The adoption of Agenda 2030 showed that it is the concept of sustainable development that marks the direction in which the future world should go.

The agenda for the world extends to the necessary change of binding law, at first, only as yet another aspect of human activity, and could be proceeded either in the interpretation of existing norms, or in their inevitable novelisation. However, law could also be adopted as a mean to implement the concept of sustainable development in varied spheres of life.

The concept of sustainable development must also be interpreted from the perspective of other normative systems², as – in particular – some of them may better deal with resulting responsibilities that are far more complex as well as not yet fully clarified as to their detailed content³. At the same time, the public control and transparency⁴ of hard law instruments must not be overlooked.

Therefore, the legal analysis of the concept of sustainable development should properly consider the complex legal background. Also, necessary interdisciplinary approach to the multifaceted scope of regulation must be adopted.

¹ PhD candidate at the Chair of Civil Law, Jagiellonian University in Kraków and academic assistant (*wissenschaftliche Hilfskraft*) at European Legal Studies Institute, University of Osnabrück. His primary area of research is the breakthrough of civil law and public law, observed mostly at the field of succession law, contract law and ownership law.

² P. Szwedo, R. Peltz-Steele, D. Tamada, *Introduction* [in:] *Law and Development. Balancing Principles and Values*, ed. P. Szwedo, R. Peltz-Steele, D. Tamada, Singapore 2019, p. viii.

³ See *ibidem*, on the perspective of sustainable development as a process.

⁴ A. Szafranski, P. Szwedo, M. Klein, *Comparative Perspectives of Adult Content Filtering: Legal Challenges and Implications*, Catholic University Law Review 2019, vol. 68, issue 1, p. 161.

Thus, the broad-ranging content of the Agenda 2030 that covers 17 interconnected goals and 169 targets, goes far beyond environmental protection, which initially predominated the debate about sustainability⁵. Currently, the primary aim within sustainable development is eradicating poverty⁶, but still it should be understood in a „balanced and integrated manner” within the three dimensions, namely: „economic, social and environmental”⁷.

The overarching scope of the concept of sustainable development inevitably leads to conflicts even within the particular goals and targets. Then, it is the proper analysis of values behind them, together with proper perception of the well-being of humanity, that could solve those conflicts.

The attempts as above have been proceeded by the law faculties in Poland. Already (since 2018) at the Faculty of Law and Administration of Jagiellonian University in Kraków, as well as at the Faculty of Law and Administration of University of Warsaw there are workshops on law of sustainable development. In Kraków these are taught jointly by Prof. Piotr Szwedo and by Wojciech Bańczyk, while in Warsaw – by Prof. Adam Szafrąński, by Prof. Paweł Wojciechowski and by Marcin Stębel, PhD. Within those courses the tutoring method is implemented to help the students prepare their academic research on the issues of particular legal problems involving primarily conflicts of economic efficiency and non-economic values⁸. This idea derives from the project of Colloquium Legale tutoring program, directed on analyses of various problems positioned at the breakthrough between dogmatic legal studies and necessary broader approach, in particular involving values-oriented perspective⁹. At the Jagiellonian University in Kraków it was developed, following the pattern successfully proceeded at the University of Warsaw¹⁰.

Such an approach led to numerous academic events aimed at developing and popularising the chosen method and subject of research¹¹. One of them was the in-

⁵ E.B. Weiss, *In Fairness to Future Generations and Sustainable Development*, American University International Law Review 1992/8.1, p. 20–22, still underlines that although it is essential to meet the basic needs of the poor, the result thereof is primarily to make them fulfilling the obligations in the area of preserving the planet's resources and reversing ecologic degradation.

⁶ *Introduction* [in:] *Transforming our World: The 2030 Agenda for Sustainable Development*, UN General Assembly Resolution from 25th September 2015, GA/RES/70/1, para. 2, makes it explicit that this is the greatest challenge for sustainable development.

⁷ *Ibidem*.

⁸ <http://www.okspo.wpia.uj.edu.pl/sustainable-development>, 18.12.2019. Varied teaching methods are adopted – one of them is e.g. educational trip, which in 2018 was proceeded with Prof. Richard Peltz-Steele, University of Massachusetts – see: <https://www.umassd.edu/news/law-news/law-faculty-news/peltz-steele-poland-2018.html>, 18.12.2019.

⁹ The interdisciplinary character of students' development reached by the adoption of the tutoring method is examined in the pedagogical research, see e.g. N. Borkowska, *Tutoring w edukacji*, Colloquium: Edukacja – Polityka – Historia 2018/4, p. 10 and 12.

¹⁰ <http://cl.uw.edu.pl/>, 18.12.2019.

¹¹ See e.g. A. Szafrąński, P. Szwedo, M. Klein, *op.cit.*; *Law and Development...* Among others, see e.g. the University Alliance for Sustainability's (UAS) Annual Spring Campus Conferences at Freie Universität Berlin, <https://www.fu-berlin.de/en/sites/uas/events-and-resources/index.html>, 18.12.2019.

ternational conference „Sustainable Development and Human Rights” organised at the Jagiellonian University in Kraków on 25th April 2019. It hosted, in particular, three ombudspersons (Prof. Gyula Bándi, Hungary; Adam Bodnar, PhD, Poland; Prof. Mária Patakyová, Slovakia), two general consuls (Prof. Adrienne Körmendy, Hungary and Tomáš Kašaj, PhD, Slovakia), as well as scholars, including also doctoral students and students representing various countries and universities¹².

This conference, at first, was aimed mostly as a recapitulation of the 2018/2019 workshops. However, it gained a considerable interest among other scholars involved in the research subject and eventually became a broader platform for thoughts exchange in the subject of sustainable development and human rights.

In order to preserve the original researches undertaken by participants of the conference, as well as the fruitful results of their speeches and discussions presented during the conference, contributions were prepared for publication. Next to the *Transformacje Prawa Prywatnego* journal [The Transformation of Private Law], in which articles will also be published, this volume aims to present the broad-ranging perspective on varied dimensions of the concept of sustainable development in the interdisciplinary perspective.

Numerous approaches were chosen by the authors. Many of them follow more typical dogmatic studies of binding law and its compliance with evolving demands of sustainability. However, all of them adopted noteworthy attempts to observe the analysed issues from the inevitable broader perspective. Also, authors represent varied countries, which always likely leads to the further differentiation of the research perspectives.

Jakub Brejda offers the readers his historical analysis of the adoption of the sustainable development principle in the Article 5 of the 1997 Polish Constitution, showing how it should be currently understood. Vivien Benda observes, on the other hand, the emerging process of usage of the direct democracy tool in the European Union perspective (the citizens’ legislative initiative) on the example of the activeness to promote better protection of right to water. Arthur Champéroux covers varied approaches towards the „polluter pays” principle, in particular as referring to the both economic and moral responsibility of the polluter. Interestingly, he referred to the most recent undertakings during the 2019 Katowice Conference of the Parties to the United Nations (COP24). All their researches well prove that both content of law, as well as its legislative history, including political tensions, show the importance of the issue of sustainable development but also its particular challenges.

Two complex studies from the economic perspective are undertaken by Filip Lubiński and Jacek Mainardi. Filip Lubiński interestingly challenges the favouring of the small and medium enterprises, analysing data showing that those that most efficiently use the resources are the biggest economic units. Also, he observes that competition law could aim not only to support market structure but also might be adopted to promote innovativeness and proper management of resources. Jacek Mainardi, however, studies the macroscale of finance and the challenges connected with financing

¹² http://www.uj.edu.pl/wiadomosci/-/journal_content/56_INSTANCE_d82lKZvhit4m/10172/142652701, 18.12.2019.

and incentivizing the activities inclined towards sustainable development. Then, both authors refer to the interdisciplinary nature of the sustainable development and – in particular – its breakthrough with both economics and non-economic values.

Additionally, this volume includes two case studies. By research on examples of activities undertaken by oil industry, that are typically economic-oriented, Marcin Kamiński challenges this conventional wisdom, and analyses actions planned towards well-being of humanity. At the same time, Gabriella Szamek's contribution refers to the particular activities of the Hungarian Ombudsman for Future Generations, especially in favour of well-chosen vulnerable groups.

The volume, as presented above, seems to be a noteworthy example of research made by young scholars aiming to observe the law from the interdisciplinary perspective. Also, it proves the broad-ranging scope of challenges connected with the legal issues of sustainable development.